

Message Text

PAGE 01 BERLIN 01054 201820 Z

44

ACTION EUR-25

INFO OCT-01 ADP-00 EURE-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-07 H-02 INR-10 L-03 NSAE-00 NSC-10

PA-03 RSC-01 PRS-01 SS-15 NEA-10 TRSE-00 MBFR-03

SAJ-01 IO-13 ACDA-19 RSR-01 /125 W
----- 008154

O 201710 Z JUN 73

FM USMISSION BERLIN

TO AMEMBASSY BONN IMMEDIATE

INFO SECSTATE WASHDC IMMEDIATE 1968

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO

C O N F I D E N T I A L BERLIN 1054

E. O. 11652: GDS

TAGS: PGOV, PFOR, GW, GE, WB

SUBJECT: DRAFT BK/ L ON BASIC TREATY AND INNER- GERMAN ARRANGEMENTS

REF: A) BONN 8700; STATE 99882; C) BERLIN 920

1. WE AGREE THAT FRG- SENAT ACTION
DEMONSTRATES REGRETTABLE CROSSING OF BONN AND BERLIN LINES
OF COMMUNICATION, (REF A) AND APPRECIATE ACTION TAKEN BY EMBASSY.
(CUNSLTATION WITH SENAT HAD BEEN DELAYED PENDING RECEIPT OF
INSTRUCTIONS BY FRENCH AND BRITISH MISSIONS.)

2. CHANGES PROPOSED BY FRG AND SENAT IN FIRST TWO AND HALF
PARAGRAPHS OF DRAFT BK/ L DONOT IN THEMSELVES GIVE US MUCH
DIFFICULTY. WE AGREE WITH EMBASSY SUGGESTION, PARA 7,
REF A, HOWEVER, THAT INSERTION OF WORDS " INTER ALIA" AFTER
" PROVIDE" IN SECOND SENTENCE OF FIRST PARAGRAPH WOULD BE
CLEARER WAY OF DEALING WITH POINT ON COMPREHENSIVE COVERAGE
OF ARRANGEMENTS WHICH MAY BE EXTENDED TO BERLIN.
CONFIDENTIAL

PAGE 02 BERLIN 01054 201820 Z

LINKAGE OF FRG REPRESENTATION OF WEST BERLIN' S INTERESTS
WITH GDR TO PREVIOUS ALLIED AUTHORIZATION RATHER THAN TYPING
IT SOLELY TO LBILATER FRG- GDR AGREEMENT IN
PARA 2 OF REDRAFT STRIKES US AS USEFUL IMPROVEMENT. WE

SUGGEST THAT REFERENCE TO " ALLED REIGHT OF CONTROL" IN PARA 3 OF REDRAFT BE REVISED TO " SUBJECT TO THE SAME RESERVATIONS" PER REFS B AND C. PHRASE " MUTATIS MUTANDIS," WHICH GERMANS WOULD USE IN BOTH SECOND AND THIRD PARAGRAPHS, IS SOMEWHAT CURIOUS. WE TAKE MEANING TO BE THAT LETTER OF THREE HIGH COMMISSIONERS AND BKC/ L(52)6 APPLY TO REPRESENTATION BY FRG OF WEST BERLIN' S INTERESTS WITH GDR AND EXTENSION TO WEST BERLIN OF INNER-GERMAN ARRANGEMENTS WITH " NECESSARY CHANGES HAVING BEEN MADE." PRESUMABLY THIS IS MEANT TO SIGNIFY THAT GDR IS NOT " ABROAD" FOR EITHER WEST BERLIN OR FRG AND THAT AGREEMENT BETWEEN FRG AND GDR IS NOT " INTERNATIONAL AGREEMENT" AS THOSE TERMS ARE USED IN TWO CITED ALLIED DOCUMENTS. THIS SEEMS TO US LEGITIMATE POINT AND INDEED IS ONE MISSION SOUGHT TO TAKE INTO ACCOUNT WHEN THEY ORIGINALLY DEVELOPED CONCEPT OF ESTABLISHING SEPARATE CATEGORY FOR INNER- GERMAN ARRANGEMENTS.

3. UNFORTUNATELY, HOWEVER, " MUTATIS MUTANDIS" IS SUBJECT TO INTERPRETATION THAT OTHER ELEMENTS OF TWO CITED ALLIED DOCUMENTS ARE ALSO CONSTRUED AS BEING MODIFIED IN INNER-GERMAN SITUATION, FOR EXAMPLE PROVISIONS OF PARAGRAPHS 1(A)5 AND 6 OF ANNEX A TO BKC/ L(52)6, WHICH FORM BASIS FOR GERMAN- ALLIED CONSULTATION ON MATTERS FRG IS NEGOTIATING ON BEHALF OF WEST BERLIN. AT VERY LEAST, THEREFORE, IT WILL BE NECESSARY TO CLARIFY WHAT IS AND WHAT IS NOT TO BE REGARDED AS CHANGED IN INNER- GERMAN CONTEXT.

4. ELIMINATION OF THIS AMBIGUITY WAS AT HEART OF SECOND HALF OF PARAGRAPH 3 OF TRIPARTITE MISSION TEXT. WE HAVE NEVER FELT THAT EXPRESSING DESIRE FOR CONSULTATION IN BK/ L ON BASIC TREATY WOULD IN ITSELF LEAD TO CLOSER COMMUNICATION BETWEEN FRG AND ALLIES. WE STILL BELIEVE, HOWEVER, THAT POSSIBILITIES FOR SERIOUS MISUNDERSTANDING EXIST UNLESS SUCH CONSULTATIONS ARE CARRIED OUT. SPECIAL SENSITIVITY OF GEOGRAPHIC SITUATION ALONSE COULD GIVE RISE TO MISUNDERSTANDINGS WITH RESPECT TO ARRANGEMENTS FRG
CONFIDENTIAL

PAGE 03 BERLIN 01054 201820 Z

CONCLUDES WITH GDR, WITH IMPORTANT RESULTS IN BERLIN WHOLLY DIFFERENT FROM THOSE THAT MIGHT BE EXPECTED WITH REGARD TO FRG AGGREEMENTS WITH ANY OTHER STATE. THIS SUGGESTS TO US THAT IT IS DESIRABLE FOR POINT TO BE MADE AND ACKNOWLEDGED BY FRG, AND EASY WAY TO ACCOMPLISH THIS APPEARED TO BE TO KEY IT TO EXISTING PROVISIONS OF BKC/ L(52)6. AS REPORTED BY EMBASSY, PARA 4 REF A, BOTH SENAT AND FRG APPARENTLY RECOGNIZE THAT CONSULTATION REQUIREMENTS REFERRED TO BY ALLIES ALREADY EXIST IN GERERAL FORM IS PARAGRAPHS 1(A)5 AND 6 OF ANNEX A TO BKC/ L (52)6.

5. WHAT TROUBLES US IS THAT SENAT REP IN BONN GROUP

INDICATED THAT BOTH SENAT AND FRG CONSIDER THESE CONSULTATION REQUIREMENTS TO BE VIRTUALLY IMPOSSIBLE TO CARRY OUT. THIS IN TURN SUGGESTS BASIC GAP BETWEEN FRG POLICY AND REQUIREMENTS OF ALLIED RIGHT AND RESPONSIBILITIES IN THIS CITY. IF FRG WISHES TO REPRESENT WEST BERLIN WITH GDR AND ALLIES ARE TO CONTINUE TO BEAR RESPONSIBILITY FOR WEST BERLIN'S SECURITY, WE DO NOT BELIEVE IT IS UNREASONABLE FOR FRG TO ACCEPT ALLIED RIGHT TO FULL CONSULTATION WHEN FRG NEGOTIATES WITH EAST GERMAN ON MATTERS AFFECTING WEST BERLIN. IN CIRCUMSTANCES, WE WOULD FAVOR INFORMING THE SENAT THAT, WHILE WE CAN BE FLEXIBLE AS TO WAY IN WHICH CONSULTATION IS ADDRESSED, WE CONSIDER ISSUE IMPORTANT. THEREFORE, WE WOULD HOPE THAT SENAT WOULD EITHER RECONSIDER INCLUDING STATEMENT ALONG LINES OF TRIPARTITE MISSION DRAFT OR THAT SENAT WOULD ITSELF FIND APPROPRIATE MEANS TO EXPRESS SAME POINTS TO ALLIES. FOLLOWING THESE CONSULTATIONS WE WOULD FAVOR HAVING ALLIED REPS IN BONN GROUP MAKE SAME POINTS TO FRG, SUGGESTING THAT TIME MAY HAVE ARRIVED FOR FRG TO FIND APPROPRIATE MEANS TO OFFER ALLIES ASSURANCES THAT WE WILL BE KEPT INFORMED AND PERMITTED TO EXPRESS OUR VIEWS IN TIMELY FASHION ON THOSE ASPECTS OF FRG RELATIONS WITH GDR THAT TOUCH DIRECTLY UPON OUR RIGHTS AND RESPONSIBILITIES FOR SECURITY OF WEST BERLIN.

6. LEGAL SITUATION THAT WILL ARISE WHEN FRG AND GDR EXCHANGE NOTICES OF RATIFICATION OF BASIC TREATY JUNE 20 IS SOMEWHAT COMPLEX. FRG LAW RATIFYING BASIC TREATY
CONFIDENTIAL

PAGE 04 BERLIN 01054 201820 Z

HAS BEEN PASSED WITH BERLIN CLAUSE, AND PRESUMABLY BERLIN HOUSE OF REPRESENTATIVES HAS BEEN SO NOTIFIED IN NORMAL COURSE OF MANTELGESETZ PROCEDURE BY WHICH FRG LAWA ARE TAKEN OVER IN BERLIN. HOUSE OF REPRESENTATIVES COULD IN THEORY, THEREFOR, ADOPT RATIFICATION LEGISLATION BEFORE IT ADJOURNS FOR SUMMER AT END OF FIRST WEEK OF JULY. HOWEVER, IT WOULD PROBABLY BE MORE APPROPRIATE FOR HOUSE OF REPRESENTATIVES NOT TO ACT UNTIL AGREEMENT ON BK/ L IS REACHED. IN LIGHT OF FRG DESIRE TO FOLLOW BKKC/ L(52)6 PROCEDURES TO GREATEST EXTENT POSSIBLE WITH BASIC TREATY AND OTHER INNER- GERMAN ARRANGEMENTS, IT WOULD ALSO BE NECESSARY FOR SENAT FORMALLY TO SUBMIT TREATY TO AK IN ACCORDANCE WITH BKC/ L(52)6, WHICH AGAIN, SHOULD PROBABLY NOT BE DONE UNTIL AGREEMENT IS REACHED ON BK/ L. ASSUMING HOUSE WAITS FOR BK/ L AND LATTER IS NOT ISSUED IN NEXT TWO WEEKS, BASIC TREATY MAY THUS NOT APPLY TO BERLIN FOR SOME TIME AFTER TREATY COMES INTO FORCE FOR FRG AND GDR, PERHAPS NOT UNTIL HOUSE OF REPRESENTATIVES RECONVENES IN THIRD WEEK OF SEPTEMBER. WE WOULD NOT, HOWEVER, REGARD THIS AS SERIOUS MATTER, PARTICULARLY SINCE SENAT COULD SUBMIT TREATY AND ALLIES COULD ASSUE BK/ L EVEN IF HOUSE OF REPRESENTATIVES NOT IN SESSION, LEAVING ONLY RATIFICATION

LAW, WHICH WE WERE APPROVING, TO BE EXTENDED FORMALLY AT
LATER DATE. ONCE BK/ IS OUT, WE WOULD FORESEE NO PRACTICAL
PROBLEMS ARISING FROM THIS SOMEWHAT PROTRACTED EXTENSION
PROCESS. WE ARE CHECKING THIS READING OUT WITH SENAT.
KLEIN

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 10 MAY 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 20 JUN 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: boyleja
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973BERLIN01054
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: BERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730635/abqceedv.tel
Line Count: 170
Locator: TEXT ON-LINE
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A) BONN 8700; STATE 99882; C) BERLIN 920
Review Action: RELEASED, APPROVED
Review Authority: boyleja
Review Comment: n/a
Review Content Flags:
Review Date: 09 AUG 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09-Aug-2001 by kellerpr>; APPROVED <13-Sep-2001 by boyleja>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> jms 980213
Subject: DRAFT BK/ L ON BASIC TREATY AND INNER- GERMAN ARRANGEMENTS
TAGS: PGOV, GE, GW, WB
To: BONN INFO STATE
LONDON
MOSCOW
PARIS
NATO
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

